IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WP(C).No. 25533 of 2007(M)

ARC.1071/2000 of MUNSIFF COURT,CHAVAKKAD

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PETITIONER:

AHAMMED, AGED 62 YEARS,S/O. VARNATTU MUHAMMED,MARUTHAYOOR DESOM, PAVARATTY VILLAGE, CHAVAKKAD TALUK.

BY ADV. SRI.RAJIT

RESPONDENTS:

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1. SECRETARY,PAVARATTY SERVICE CO-OPERATIVE BANK LTD., NO. 3918,P.O.PAVARATTY.

2. SERVICE CO-OPERATIVE BANK, PAVARATTY, REP BY ITS SECRETARY.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.25533 OF 2007

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Dated this the 22nd day of August 2007

JUDGMENT

This writ petition is filed to direct the Munsiff's Court, Chavakkad to permit the petitioner to pay the amount due to the bank in instalments and direct restoration of the property to the petitioner. The property was sold in auction and it was bid by the bank. Sale confirmed and the sale certificate issued. The learned counsel for the writ petitioner submits that it is posted for delivery today. The writ petitioner did not move his little finger to set aside the sale or to comply with the order by making payment as contemplated under Order XXI Rule 89 of the Code of Civil Procedure and therefore nothing can be done because statutory period fixed by law is already over. So there cannot be an interference legally regarding the order for delivery. But the learned counsel for the writ petitioner submits that it is his residential house and if it is delivered it will cause undue hardship to him. The only method for the petitioner is to approach the bank for mercy and if the bank so desires it can receive the amount due including the amounts stipulated under Order XXI Rule 89 C.P.C. and other expenses and

reconvey the property to the petitioner. In order to enable the petitioner to move such an application and in order to facilitate the bank to consider such a request, if the property is not already delivered till 11.30 a.m. today, the court shall defer the delivery for a period of one month and in case the delivery is effected, not to record the delivery for a period of one month.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-